

INDIANA



Score: 49

Grade: F

1. Does state law mandate that attorneys be appointed for children in dependency proceedings?

Points: 15 out of 40

“The court may appoint counsel to represent any child” in dependency proceedings (Burns Ind. Code Ann. § 31-32-4-2).

Basis for deduction: Under Indiana law, the appointment of an attorney for a child in dependency proceedings is discretionary.

2. When an attorney is appointed for a child in dependency proceedings, does state law define the duration of the appointment?

Points: 5 out of 10

Basis for deduction: Indiana law does not expressly guarantee counsel for children at the appellate stage of dependency proceedings.

3. To what extent will a child receive client-directed representation?

Points: 3 out of 20

Basis for deduction: Indiana law is vague with regard to whether an attorney appointed for a child in dependency proceedings is required to advocate for the expressed wishes of the child in a client directed manner (“[a] guardian ad litem or court appointed special advocate need not be an attorney, but the attorney representing the child may be appointed the child’s guardian ad litem or court appointed special advocate” (Burns Ind. Code Ann. § 31-32-3-3)).

4. To what extent are specialized education and/or training requirements for the child’s counsel required by state law? Are such education and/or training required to include multidisciplinary elements? If no such education and/or training is required for child’s counsel, to what extent is it required for a child’s GAL?

Points: 6 out of 10

Under legislative changes scheduled to go into effect as of July 1, 2012, a guardian ad litem must complete training appropriate for the person’s role, including training in the identification and treatment of child abuse and neglect and early childhood, child, and adolescent development (Burns Ind. Code Ann. § 31-9-2-50(b)(3), as will be amended by 2012 Ind. ALS 48).

Basis for Deduction: Although specialized multidisciplinary training is not required for a child’s counsel, it is required for attorneys and non-attorney GALs.

5. Does state law expressly give the child the legal status of a party with all rights appurtenant thereto? If not, does state law expressly give the child some of the rights of the party?	<p>Points: 10 out of 10</p> <p>Children “are parties to the proceedings described in the juvenile law and have all rights of parties under the Indiana Rules of Trial Procedure” (Burns Ind. Code § 31-34-9-7).</p>
6. Does state law pertaining to liability and confidentiality apply to legal counsel representing children in dependency proceedings?	<p>Points: 10 out of 10</p> <p>“When a client’s capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client” (IN R. of Prof. Conduct 1.14(a)).</p>
Extra Credit: Does state law address caseload standards for attorneys in dependency proceedings?	<p>Points: 0 extra credit points</p> <p>Indiana law does not address caseload standards for attorneys representing children in dependency proceedings.</p>

Sidebar Notes:

- Indiana code provides, except in cases of gross misconduct, immunity from any civil liability that may occur as a result of that person’s performance during the time that the person is acting within the duties of the GAL (Burns Ind. Code § 31-32-3-10). This civil immunity provision applies only to individuals acting as a guardian ad litem or CASA whether or not they are attorneys. If an individual is appointed as an attorney for a child and not as a guardian ad litem, they are covered by the Rules of Professional Conduct and do not receive civil immunity.

